

**UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

LEK SECURITIES
CORPORATION, et al.,

Defendants.

Case No. 17-CV-1789 (DLC)

**DEFENDANTS PUSTELNIK, FAYYER, AND AVALON’S MEMORANDUM OF LAW
IN SUPPORT OF MOTION *IN LIMINE* TO EXCLUDE THE TESTIMONY
OF PROFESSOR NEIL PEARSON**

Defendants Sergey Pustelnik, Nathan Fayyer and Avalon FA Ltd. (“Defendants”) respectfully submit this Memorandum of Law in Support of their Motion *in Limine* to Exclude the Testimony of Plaintiffs’ expert Professor Neil Pearson.

PRELIMINARY STATEMENT

On August 24, 2018, the Lek Defendants filed a Motion in Limine to Exclude the Testimony and Opinions of Putative Expert Neil Pearson, and in support thereof filed a Declaration of Steven Dollar with Exhibits 1 through 9 and a Memorandum of Law. *See* ECF Docket ## 211-213. On November 2, 2018, the Lek Defendants filed a Reply Memorandum of Law in Support of the Motion in Limine. ECF Docket # 285. By Order dated March 14, 2019, the Court denied that motion.

Defendants hereby adopt and incorporate into this memorandum of law all of the arguments, pleadings, briefs, citations, legal authorities and supporting documents and exhibits relied upon in support of these motions.¹

ARGUMENT

1. PROFESSOR PEARSON'S PROPOSED TESTIMONY AND OPINIONS ARE INADMISSIBLE BECAUSE THEY ARE UNRELIABLE

In support of Defendants' argument that Professor Pearson's testimony should be excluded because his methodology is unreliable, Defendants rely on, adopt and incorporate as if fully set forth herein all arguments, citations, legal authorities, and documents relied on and cited to in: (1) Pages 9-19 of ECF Docket # 212, Lek's Memorandum Of Law In Support Of Defendants Lek Securities Corporation And Samuel Lek's Motion To Exclude The Testimony And Opinions Of Putative Expert Neil Pearson; and (2) Pages 2-10 of ECF Docket # 285, Lek's Reply Memorandum of Law In Support Of Defendants Lek Securities Corporation And Samuel Lek's Motion To Exclude The Testimony And Opinions Of Putative Expert Neil Pearson.

2. PROFESSOR PEARSON'S PROPOSED TESTIMONY IS UNRELIABLE BECAUSE IT LACKS PROBATIVE VALUE

In support of Defendant's argument that Professor Pearson's testimony should be excluded because his proposed testimony is unreliable because it lacks probative value, Defendants rely on, adopt and incorporate as if fully set forth herein all arguments, citations, legal authorities, and documents relied on and cited to in Pages 17-19 of ECF Docket # 212,

¹ Based on the Court's March 14, 2019 Order, Defendants anticipate that this motion will be denied. Defendants nevertheless make this motion primarily to preserve their objections to Professor Pearson's opinions and testimony for appeal. Defendants contacted the SEC in an attempt to resolve this issue by stipulation without the filing of a motion so the Court would not have to waste judicial resources ruling on the motion. However, counsel for SEC declined to enter into the proposed stipulation.

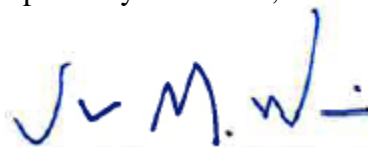
Lek's Memorandum Of Law In Support Of Defendants Lek Securities Corporation And Samuel Lek's Motion To Exclude The Testimony And Opinions Of Putative Expert Neil Pearson.

CONCLUSION

For these reasons, the Court should issue an Order granting Defendant's motion to exclude Professor Pearson's opinions and testimony.

Dated: September 13, 2019

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J. M. Wines", is positioned above a horizontal line.

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